

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2372

To amend the Surface Mining Control and Reclamation Act of 1977 to minimize duplication in regulatory programs and to give States exclusive responsibility under approved States program for permitting and enforcement of the provisions of that Act with respect to surface coal mining and reclamation operations, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 21, 1995

Mrs. CUBIN (for herself, Mr. CREMEANS, Mr. NEY, Mr. MOLLOHAN, Mr. HANSEN, Mr. HAYWORTH, Mr. THORNBERRY, Mr. ALLARD, Mr. CALVERT, Mr. DOOLITTLE, Mr. POMBO, and Mr. COOLEY) introduced the following bill; which was referred to the Committee on Resources

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## A BILL

To amend the Surface Mining Control and Reclamation Act of 1977 to minimize duplication in regulatory programs and to give States exclusive responsibility under approved States program for permitting and enforcement of the provisions of that Act with respect to surface coal mining and reclamation operations, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Surface Mining Con-  
5       trol and Reclamation Amendments Act of 1995”.

1 **SEC. 2. STATEMENT OF FINDINGS AND POLICY.**

2 Section 101 of the Surface Mining Control and Rec-  
3 lamation Act of 1977 (30 U.S.C. 1201) is amended—

4 (1) by striking “and” at the end of paragraph  
5 (j);

6 (2) by striking the period at the end of para-  
7 graph (k) and inserting “; and”; and

8 (3) by adding at the end the following:

9 “(l) a majority of the coal-producing States  
10 have developed programs that regulate surface and  
11 underground coal mining operations within their  
12 borders in an environmentally sound manner, taking  
13 into account the diversity in terrain, climate, chemi-  
14 cal, and other physical conditions in areas subject to  
15 mining operations; and

16 “(m) duplication in regulatory programs should  
17 be avoided and States assume the exclusive respon-  
18 sibility under approved State programs for permit-  
19 ting and enforcement of the provisions of this Act  
20 with respect to surface coal mining and reclamation  
21 operations within the States.”.

22 **SEC. 3. FUNCTIONS OF OFFICE OF SURFACE MINING REC-**  
23 **LAMATION AND ENFORCEMENT.**

24 Section 201(c)(1) of the Surface Mining Control and  
25 Reclamation Act of 1977 (30 U.S.C. 1211(c)) is amended  
26 to read as follows:

1           “(1)(A) administer the programs for controlling  
2       surface coal mining operations which are required by  
3       this Act;

4           “(B) review and approve or disapprove State  
5       programs for controlling surface coal mining oper-  
6       ations and reclaiming abandoned mine lands;

7           “(C) except in a State with an approved State  
8       program—

9               “(i) make those investigations and inspec-  
10           tions necessary to ensure compliance with this  
11           Act,

12               “(ii) conduct hearings, administer oaths,  
13           issue subpoenas, and compel the attendance of  
14           witnesses and production of written or printed  
15           material, and

16               “(iii) review and vacate or modify or ap-  
17           prove orders and decisions, and order the sus-  
18           pension, revocation, or withholding of any per-  
19           mit for failure to comply with any of the provi-  
20           sions of this Act or any rules and regulations  
21           adopted pursuant thereto;”.

22   **SEC. 4. STATE PROGRAMS.**

23       Section 503 of the Surface Mining Control and Rec-  
24       lamation Act of 1977 (30 U.S.C. 1253) is amended by  
25       adding at the end the following:

1       “(e) With respect to a State with an approved State  
2 program—

3               “(1) the State program shall apply in lieu of  
4 this Act to surface coal mining and reclamation op-  
5 erations in the State; and

6               “(2) the provisions of this Act and the regula-  
7 tions promulgated by the Secretary pursuant to this  
8 Act shall not become effective with respect to sur-  
9 face coal mining and reclamation operations within  
10 a State with an approved State program until such  
11 time as the State has amended its approved State  
12 program and the permittee has been provided a rea-  
13 sonable time (as determined by the regulatory au-  
14 thority) to conform ongoing surface coal mining and  
15 reclamation operations to any revised or additional  
16 requirements under such amended State program.”.

17 **SEC. 5. FEDERAL PROGRAMS.**

18       Section 504(b) of the Surface Mining Control and  
19 Reclamation Act of 1977 (30 U.S.C. 1254(b)) is amended  
20 by striking “section 521” and inserting “section 521(b)”.

21 **SEC. 6. PERMITS.**

22       Section 506 of the Surface Mining Control and Rec-  
23 lamation Act of 1977 (30 U.S.C. 1256) is amended by  
24 adding at the end the following:

1       “(e) A surface coal mining and reclamation operation  
2 that is in compliance with the terms and conditions of a  
3 permit issued pursuant to this Act shall be deemed to be  
4 in compliance with the environmental protection standards  
5 of this Act and the approved State program or Federal  
6 program or Federal lands program pursuant to this Act,  
7 except that the regulatory authority may, pursuant to sec-  
8 tion 511(c) of this Act, require reasonable revisions of a  
9 permit to ensure compliance with this Act and regulatory  
10 program.”.

11 **SEC. 7. ENFORCEMENT.**

12       (a) NOTICE FOR ABATEMENT.—Section 521(a)(3) of  
13 such Act (30 U.S.C. 1271(a)(3)) is amended by striking  
14 “or section 504(b)”.

15       (b) SUSPENSION AND REVOCATION ORDER.—Section  
16 521(a)(4) of such Act (30 U.S.C. 1271(a)(4)) is amended  
17 by striking “or section 504”.

18       (c) STATE RESPONSIBILITY.—Section 521(a) (30  
19 U.S.C. 1271(a)) is amended by adding at the end the fol-  
20 lowing:

21       “(6)(A) Except as provided in subparagraph (B) and  
22 paragraph (2) of this subsection, the regulatory authority  
23 shall have the sole responsibility for issuance of a notice  
24 to the permittee or his agent of a violation of any require-  
25 ment of this Act or any permit condition required by this

1 Act, and the suspension or revocation of any permit issued  
2 pursuant to a State program, which determination by the  
3 State regulatory authority shall be subject to administra-  
4 tive and judicial review in accordance with State law.

5 “(B) The responsibility for enforcement at any sur-  
6 face coal mining and reclamation operation of any provi-  
7 sion of the Federal Water Pollution Control Act or any  
8 State law enacted pursuant thereto, or other Federal laws  
9 relating to preservation of water quality, including (but  
10 not limited to) compliance with effluent limitations and  
11 water quality standards shall rest with the regulatory au-  
12 thority approved by the United States Environmental Pro-  
13 tection Agency under such water quality laws.”.

14 **SEC. 8. JUDICIAL REVIEW.**

15 (a) ORDER OF ALJ.—Section 526(a) of the Surface  
16 Mining Control and Reclamation Act of 1977 (30 U.S.C.  
17 1276) is amended by adding at the end the following:

18 “(3) For the purposes of this section, an order of an  
19 administrative law judge in a proceeding conducted pursu-  
20 ant to section 554 of title 5, United States Code, shall  
21 be deemed a final decision of the Secretary subject to judi-  
22 cial review in accordance with this section.”.

23 (b) ACTIONS RELATING TO STATE PROGRAM.—Sec-  
24 tion 526 of such Act (30 U.S.C. 1276) is amended by  
25 striking subsection (e) and inserting the following:

1 “(e) Action of the State regulatory authority pursu-  
 2 ant to an approved State program shall be subject to judi-  
 3 cial review by a court of competent jurisdiction in accord-  
 4 ance with State law.

5 “(f) Where there is an approved State program, any  
 6 action of the Secretary pursuant to section 521(b) shall  
 7 be subject to judicial review by the United States district  
 8 court for the district which includes the capital of the  
 9 State whose program is at issue.”.

10 **SEC. 9. TIME LIMITATION.**

11 (a) IN GENERAL.—Title VII of the Surface Mining  
 12 Control and Reclamation Act of 1977 (30 U.S.C. 1291  
 13 and following) is amended by adding the following new  
 14 section at the end thereof:

15 **“SEC. 722. TIME LIMITATION.**

16 “An action, suit, or any other proceeding under this  
 17 Act for the enforcement of any violation, fine, penalty, or  
 18 forfeiture, pecuniary or otherwise, shall be barred unless  
 19 commenced within three years from the date on which the  
 20 violation first occurs.”.

21 (b) TECHNICAL AMENDMENT.—The table of contents  
 22 in the first section of the Surface Mining Control and Rec-  
 23 lamation Act of 1977 (30 U.S.C. prec. 1201) is amended  
 24 by inserting after the item for section 719 the following:

“Sec. 720. Subsidence.

“Sec. 721. Research.

“Sec. 722. Time limitation.”.

1 **SEC. 10. DEFINITIONS.**

2       Section 701(28)(B) of the Surface Mining Control  
3 and Reclamation Act of 1977 (30 U.S.C. 1291(28)(B))  
4 is amended by striking “and” at the end thereof and in-  
5 serting the following: “For the purposes of this section,  
6 activities and areas do not include the construction, im-  
7 provement, or use of a road that is either designated as  
8 a public road pursuant to the laws of the jurisdiction in  
9 which the road is located, or maintained under the author-  
10 ity of a governmental entity, and the road is constructed  
11 in a manner similar to other roads of the same classifica-  
12 tion within the jurisdiction and open to public use.”.

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